

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

GEMINI TRUST COMPANY, LLC,

Defendant.

No. 22-cv-4563 (AKH)

Hon. Alvin K. Hellerstein

**[PROPOSED] ORDER
GRANTING MOTION
TO COMPEL**

Upon the motion of defendant Gemini Trust Company, LLC (the “Motion”), pursuant to Federal Rule of Civil Procedure 37(a), for the entry of an Order (i) compelling witnesses Gregory Kuserk and Christopher Goodman to answer questions that counsel for plaintiff Commodity Futures Trading Commission (“CFTC”) instructed them not to answer on the basis of the deliberative process privilege; and (ii) compelling any and all future CFTC witnesses to answer questions of the same nature that are posed during their depositions; or, in the alternative (iii) precluding CFTC from offering evidence as to any matter on which it has asserted the deliberative process privilege as a bar to discovery; and having considered the arguments of the parties as set forth in their respective memorandum of law and during argument on this motion; and after due deliberation and sufficient cause appearing therefore; it is hereby:

ORDERED that the Motion is GRANTED; and it is further

ORDERED that Gregory Kuserk and Christopher Goodman must answer those questions that counsel for CFTC instructed them not to answer on the basis of the deliberative process privilege, plus such related and follow-up questions as are appropriate; and it is further

ORDERED that any and all future CFTC witnesses must answer questions of the same nature that are posed during their depositions;

IN THE ALTERNATIVE, it is ORDERED that Plaintiff CFTC is precluded from offering evidence as to any matter on which it has asserted the deliberative process privilege as a bar to discovery, including but not limited to those topics identified in Gemini's memorandum of law.

Dated: October __, 2023

The Honorable Alvin K. Hellerstein
United States District Judge